



Non-Merit/Unclassified Position Guidance

Requests for certain actions involving non-merit/unclassified positions require, at a minimum, pre-approval through the Office of the Secretary of the Governor's Executive Cabinet. This approval should be sought through the Request for Personnel Action Exemption Process. Information regarding this process, including a list of entities, excluded from this process, is available on the Personnel Cabinet's HR website.

For certain other non-merit/unclassified positions, additional processes may need to be completed before those action requests can be considered for approval. Below is a list of and details regarding those positions followed by information surrounding a few scenarios that are unique to non-merit/unclassified positions.

For appointments under:

- **KRS 12:040- Heads of Departments/some Executive Directors, or**
- **KRS 12:050- Deputy Heads of Departments/Executive Directors/Directors**

Agencies should submit the following information to Larry Gillis at the Personnel Cabinet:

1. A letter requesting approval to appoint the individual with an effective date.
2. An information sheet filled out with all relevant data.
3. A recently completed application in COS.
4. An approved PAE if available—paperwork submitted will be held until approved PAE is received.

NOTE: Letter should reference appropriate statute, be printed on the agency's letterhead and be addressed to the Governor. It should be signed by the appointing authority and have signature lines for the Governor as well as the Secretary of the Personnel Cabinet. (Sample letters for KRS 12:040 and KRS 12:050 are available on the Personnel Cabinet's HR Website.)

Once reviewed and approved by the Personnel Cabinet Secretary, the documents are then hand-delivered to the Governor's Office for final approval. The Governor's Office will notify the Personnel Cabinet when the appointment paperwork has been approved and may be retrieved by the Personnel Cabinet. Once approved, agencies are notified by the Personnel Cabinet and the agency may contact the appointee. The Personnel Cabinet will provide the paperwork to the agency and the formal appointment action can then be entered in KHRIS.

For appointments under:

- **KRS 12:210- Attorneys (Staff Attorneys)/General Counsel**

Any attorney who will provide legal services within the Executive Branch must obtain approval from the Governor prior to providing those legal services under the authority of KRS 12.210. The sole exceptions to the requirement for the 12.210 include attorneys appointed in the following offices: Office of the Attorney General per KRS 15.100 and the Office of the Public Advocate per KRS 31.020.

Agencies should submit the same information as indicated above under KRS 12:050, with the addition of a letter referencing KRS 12:210, which will initiate the creation of the Executive Order. A sample letter for KRS 12:210 is also available on the Personnel Cabinet's HR Website. In the event that the position is merit/classified (Staff Attorney), the approved PAE will not be necessary. Reviews and approvals conducted under KRS 12:210 are the same as indicated above.

Requesting additional policy making positions:

If a *second* policy-making position is necessary, a request for such position must be sent to the Secretary of the Personnel Cabinet per KRS 18A.115 which defines those positions that are exempt policy-makers and sets the standards under which additional policy-making positions must be requested.

Agencies should submit a letter of justification to the Secretary of the Personnel Cabinet along with a current and proposed organizational chart.

Approval of an additional policy-making position will have a five (5) year approval time limit. After the expiration of five (5) years, the position shall be abolished unless reapproved for another five (5) year period by the Personnel Cabinet. The Personnel Cabinet maintains all information about the creation and expiration of petitioned positions.

If a *third or more* policy-making position is necessary, approval must be requested through the Secretary of the Personnel Cabinet who then forwards the request on to the Personnel Board.

Agencies should submit a letter of justification through the Secretary of the Personnel Cabinet along with a current and proposed organizational chart.

Board petition approvals need to be in the Personnel Cabinet at least ten (10) working days prior to the next board meeting in order to have adequate opportunity for review and recommendation. Agencies are notified that the position petition request is on the agenda, and that appropriate personnel within an agency should attend the meeting to answer any questions the board members may have. As stated above, there is a five (5) year approval limit on the position and will be abolished unless re-approval by the Personnel Board is granted.

Sample petition letters can be found on the Personnel Cabinet's HR website.

Transfer of Unclassified Employees

Procedures have been implemented to provide for the movement of unclassified graded and ungraded employees utilizing the transfer process with no break in service. Agencies will be able to use Position Number Change – Internal/TWI Vol (Z8/02) or Position Number Change – External/Transfer In (Z7/01).

The following guidelines further explain the transfer process:

- An unclassified employee in an ungraded position will be able to transfer to another unclassified ungraded position within the same agency **or to another agency**.
- An unclassified employee in a graded position will be able to transfer to another unclassified graded position, provided it is the same grade, within the same agency **or to another agency**.
- There will be no salary change on the transfer action.
- Governor's approval through the 12:050/12:040 process will be required for all policy-making positions.
- All agencies must complete the petition process if an additional policy-making position is necessary for the transfer.
- The increment date will remain the same.
- An unclassified employee in a GRADED position may not transfer to an UNGRADED position or vice versa. This action must be done as a resign/appoint with eligibility for an initial salary increase upon completion of six months' service.

Request for Reduction in Pay

If an unclassified employee (appointed via 12:050, 12:040, or Executive Order) must take a reduction in salary while remaining in the same position, an agency must complete the following:

- 1) Notify the employee of the new salary and effective date. If the employee is in a graded unclassified position, the salary may not be reduced below the minimum of his pay grade.

The suggested language for written notification to the employee is:

"Dear Employee,

Please be advised that effective_____ your salary will be \$_____per month. This action is being taken without cause, therefore you do not have the right to appeal this action except as otherwise provided by KRS 18A.095.

Sincerely,

Appointing Authority

- 2) Submit a Change in Pay Action 10 Salary Adjustment with the supporting documentation.

This action will not change the employee's status or increment date.

Non-Merit Appointee:

Waiver of Six Month Salary Advancement

By regulation, an unclassified employee's six month salary advancement may be delayed by the appointing authority but must be granted no later than the first day following 12 months of service; however, an employee may voluntarily request to waive the six month salary advancement.

In this instance, the employee must submit a voluntary statement requesting a waiver of the six month salary advancement.

The request must include the following information:

1. Name of employee.
2. Due date for the six month salary increase.
3. Position to which he/she was appointed.